

# Senate Study Bill 3239

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CO=CHAIRPERSONS BEHN AND  
WARNSTADT)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the regulation of state banks and bank holding  
2 companies including attestation and publication requirements,  
3 the removal and service of officers, directors, and employees,  
4 and offers to purchase stock, and increasing civil penalties.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 5323SC 81  
7 kk/je/5

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1 1 Section 1. Section 524.217, subsection 2, Code 2005, is  
1 2 amended to read as follows:  
1 3 2. The superintendent may furnish to the federal deposit  
1 4 insurance corporation, the federal reserve system, the office  
1 5 of the comptroller of the currency, the office of thrift  
1 6 supervision, national credit union administration, the federal  
1 7 home loan bank, the financial crimes enforcement network of  
1 8 the federal department of the treasury, the United States  
1 9 internal revenue service, and financial institution regulatory  
1 10 authorities of other states, or to any official or supervising  
1 11 examiner of such regulatory authorities, a copy of the report  
1 12 of any or all examinations made of any state bank and of any  
1 13 affiliate of a state bank.  
1 14 Sec. 2. Section 524.220, subsection 1, Code 2005, is  
1 15 amended to read as follows:  
1 16 1. A state bank shall render a full, clear, and accurate  
1 17 statement of its condition to the superintendent, in a format  
1 18 prescribed by the superintendent, ~~verified by the oath of an~~  
1 19 ~~officer and attested by the signatures of at least three of~~  
1 20 ~~the directors, or verified by the oath of two of its officers,~~  
1 21 and attested by at least two of the directors. The  
1 22 superintendent may, in the superintendent's discretion, use  
1 23 any form of statement of condition that is used by the federal  
1 24 deposit insurance corporation or the federal reserve system.  
1 25 Sec. 3. Section 524.220, subsection 3, Code 2005, is  
1 26 amended by striking the subsection.  
1 27 Sec. 4. Section 524.312, subsection 3, Code 2005, is  
1 28 amended to read as follows:  
1 29 3. If a change in the location of the principal place of  
1 30 business of a state bank is proposed, application for approval  
1 31 of the superintendent shall be made as required by the  
1 32 superintendent pursuant to this section. A change in location  
1 33 of the principal place of business of a state bank, including  
1 34 a change from one municipal corporation to another municipal  
1 35 corporation within an urban complex, requires an amendment to  
2 1 the articles of incorporation pursuant to sections 524.1502,  
2 2 524.1504, and 524.1506. A state bank seeking approval of a  
2 3 change of location pursuant to this subsection shall publish  
2 4 ~~once each week for two consecutive weeks~~ a notice of the  
2 5 proposed change of location in a newspaper of general  
2 6 circulation in the municipal corporation or unincorporated  
2 7 area in which the state bank has its principal place of  
2 8 business, or if there is none, in a newspaper of general  
2 9 circulation in the county, or in a county adjoining the  
2 10 county, in which the state bank has its principal place of  
2 11 business, and in the municipal corporation in which it seeks  
2 12 to establish its principal place of business, or if there is  
2 13 none, in a newspaper of general circulation in the county, or

2 14 in a county adjoining the county, in which the municipal  
2 15 corporation is located. The ~~notices~~ notice shall be published  
2 16 within thirty days after the application to the superintendent  
2 17 for approval of the change in location is accepted for  
2 18 processing. The notice shall set forth the name of the state  
2 19 bank, the present location of its principal place of business,  
2 20 the location to which it proposes to move its principal place  
2 21 of business, and the date upon which the application was  
2 22 accepted for processing by the superintendent.

2 23 Sec. 5. Section 524.606, subsection 2, unnumbered  
2 24 paragraph 1, Code 2005, is amended to read as follows:

2 25 If, in the opinion of the superintendent, any director of a  
2 26 state bank or bank holding company has violated any law  
2 27 relating to such state bank or bank holding company or has  
2 28 engaged in unsafe or unsound practices in conducting the  
2 29 business of such state bank or bank holding company, the  
2 30 superintendent may cause notice to be served upon such  
2 31 director, to appear before the superintendent to show cause  
2 32 why the director should not be removed from office. A copy of  
2 33 such notice shall be sent to each director of the state bank  
2 34 or bank holding company affected, by registered or certified  
2 35 mail. If, after granting the accused director a reasonable  
3 1 opportunity to be heard, the superintendent finds that the  
3 2 director violated any law relating to such state bank or bank  
3 3 holding company or engaged in unsafe or unsound practices in  
3 4 conducting the business of such state bank or bank holding  
3 5 company, the superintendent, in the superintendent's  
3 6 discretion, may order that such director be removed from  
3 7 office, and that such director be prohibited from serving in  
3 8 any capacity in any other bank, bank holding company, bank  
3 9 affiliate, trust company, or an entity licensed under chapter  
3 10 533A, 533C, 533D, 535B, 536, or 536A. A copy of the order  
3 11 shall be served upon such director and upon the state bank or  
3 12 bank holding company of which the person is a director at  
3 13 which time the person shall cease to be a director of the  
3 14 state bank or bank holding company. The resignation,  
3 15 termination of employment, or separation of such director,  
3 16 including a separation caused by the closing of the state bank  
3 17 or bank holding company at which the person serves as a  
3 18 director, does not affect the jurisdiction and authority of  
3 19 the superintendent to cause notice to be served and proceed  
3 20 under this subsection against the director, if the notice is  
3 21 served before the end of the six-year period beginning on the  
3 22 date the director ceases to be a director with the bank.

3 23 Sec. 6. Section 524.707, subsection 2, Code 2005, is  
3 24 amended to read as follows:

3 25 2. Section 524.606, subsection 2, which provides for the  
3 26 removal of directors by the superintendent, shall have equal  
3 27 application to officers and employees of a bank, bank holding  
3 28 company, bank affiliate, or trust company.

3 29 Sec. 7. Section 524.1601, Code 2005, is amended to read as  
3 30 follows:

3 31 524.1601 PENALTIES AND CRIMINAL PROVISIONS APPLICABLE TO  
3 32 DIRECTORS, OFFICERS, AND EMPLOYEES OF STATE BANKS AND BANK  
3 33 HOLDING COMPANIES.

3 34 1. A director, officer, or employee of a state bank or  
3 35 bank holding company who willfully violates any of the  
4 1 provisions of subsection 4 of section 524.612, section  
4 2 524.613, subsection 2 of section 524.706, insofar as such  
4 3 subsection incorporates subsection 4 of section 524.612, or  
4 4 section 524.710, shall be guilty of a serious misdemeanor,  
4 5 plus, in the following circumstances, an additional fine or  
4 6 fines equal to:

4 7 a. The amount of money or the value of the property which  
4 8 the director, officer, or employee received for procuring, or  
4 9 attempting to procure, a loan, extension of credit, or  
4 10 investment by the state bank or bank holding company, upon  
4 11 conviction of a violation of subsection 1 of section 524.613,  
4 12 or of subsection 1 of section 524.710.

4 13 b. The amount by which the director's, officer's, or  
4 14 employee's deposit account in the state bank or bank holding  
4 15 company is overdrawn, upon conviction of a violation of  
4 16 subsection 2 of section 524.613, or of subsection 2 of section  
4 17 524.710.

4 18 c. The amount of any profit which the director, officer,  
4 19 or employee receives on the transaction, upon conviction of a  
4 20 violation of subsection 4 of section 524.612, or of subsection  
4 21 2 of section 524.706, insofar as each applies to purchases  
4 22 from and sales to a state bank or bank holding company upon  
4 23 terms more favorable to such director, ~~or~~ officer, or employee  
4 24 than those offered to other persons.

4 25 d. The amount of profit, fees or other compensation  
4 26 received, upon conviction of a violation of section 524.710,  
4 27 subsection 1, paragraph "b".

4 28 2. A director or officer who willfully makes or receives a  
4 29 loan in violation of subsection 1 of section 524.612, or  
4 30 subsection 1 of section 524.706, shall be guilty of a serious  
4 31 misdemeanor and shall be subject to an additional fine equal  
4 32 to that amount of the loan in excess of the limitation imposed  
4 33 by such subsections, and shall be forever disqualified from  
4 34 acting as a director or officer of any state bank or bank  
4 35 holding company. For the purpose of this subsection, amounts  
5 1 which are treated as obligations of an officer or director  
5 2 pursuant to subsection 5 of section 524.612, shall be  
5 3 considered in determining whether the loan or extension of  
5 4 credit is in violation of subsection 1 of section 524.612 and  
5 5 subsection 1 of section 524.706.

5 6 3. A director, officer, or employee of a state bank or  
5 7 bank holding company who willfully makes or receives a loan or  
5 8 extension of credit of funds held by the state bank or bank  
5 9 holding company as fiduciary, in violation of subsection 4 of  
5 10 section 524.1002, shall be guilty of a serious misdemeanor and  
5 11 shall be subject to a further fine equal to the amount of the  
5 12 loan or extension of credit made in violation of subsection 4  
5 13 of section 524.1002, and shall be forever disqualified from  
5 14 acting as a director, officer, or employee of any state bank  
5 15 or bank holding company.

5 16 4. A director, officer, or employee of a state bank or  
5 17 bank holding company who willfully violates, or participates  
5 18 in the violation of, section 524.814, or section 524.819,  
5 19 shall be guilty of a serious misdemeanor.

5 20 Sec. 8. Section 524.1602, unnumbered paragraph 1, Code  
5 21 2005, is amended to read as follows:

5 22 The superintendent may impose a penalty on a state bank of  
5 23 up to one ~~hundred thousand~~ dollars for each day:

5 24 Sec. 9. Section 524.1603, subsection 2, Code 2005, is  
5 25 amended to read as follows:

5 26 2. The superintendent may impose a penalty on a state bank  
5 27 of up to one ~~hundred thousand~~ dollars for each day that it  
5 28 violates the provisions of section 524.1201.

5 29 Sec. 10. Section 524.1803, Code 2005, is repealed.

5 30 EXPLANATION

5 31 This bill relates to the regulation of state banks. The  
5 32 bill permits the superintendent to provide copies of  
5 33 examinations or reports to the financial crimes enforcement  
5 34 network of the U.S. department of the treasury and the  
5 35 internal revenue service. The bill changes the verification  
6 1 and attestation requirements for reports to the superintendent  
6 2 by requiring two officers to verify and at least two directors  
6 3 to attest to the report rather than allowing an alternative  
6 4 verification by one officer and attestation by at least three  
6 5 directors. The bill repeals the requirement that a state bank  
6 6 publish the bank's statement of condition in a local  
6 7 newspaper. The bill reduces the number of times a state bank  
6 8 must publish a notice of a proposed change of location of its  
6 9 principal place of business in a local newspaper.

6 10 The bill provides the superintendent with authority to  
6 11 remove a director, officer, or employee of a bank holding  
6 12 company for engaging in unsafe or unsound practices in  
6 13 conducting the business of the bank holding company and  
6 14 prohibit the director from serving in any capacity for another  
6 15 entity regulated by the superintendent. The bill makes the  
6 16 criminal provisions of Code chapter 524 applicable to a  
6 17 director, officer, or employee of a bank holding company.

6 18 The bill increases the penalty the superintendent may  
6 19 impose on a state bank from \$100 per day to \$1,000 per day.  
6 20 The bill repeals the provision restricting the ability of a  
6 21 bank holding company to purchase stock of a state or national  
6 22 bank.

6 23 LSB 5323SC 81

6 24 kk:rj/je/5.1